

GENERAL ACCOUNTING OFFICE ACT OF 1979

HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 24

**TO IMPROVE BUDGET MANAGEMENT AND EXPENDITURE
CONTROL BY REVISING CERTAIN PROVISIONS RELATING
TO THE COMPTROLLER GENERAL AND THE INSPECTORS
GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH,
EDUCATION, AND WELFARE, AND FOR OTHER PURPOSES**

JUNE 19, 1979

Printed for the use of the Committee on Government Operations



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(III)

GENERAL ACCOUNTING OFFICE ACT OF 1979

TUESDAY, JUNE 19, 1979

HOUSE OF REPRESENTATIVES,
LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:36 a.m., in room 2154, Rayburn House Office Building, Hon. Jack Brooks (chairman of the subcommittee) presiding.

Present: Representatives Jack Brooks, Don Fuqua, Elliott H. Levitas, Frank Horton, John N. Erlenborn and Arlan Stangeland.

Also present: Elmer W. Henderson, staff director; William M. Jones, general counsel; E. Jean Grace, clerk; Ray Nelson, intern; Robert Brink, professional staff member; Kurt Mattlock, professional staff member; James Lewin, professional staff member; John M. Duncan, minority staff director; and James McInerney, minority professional staff, Committee on Government Operations.

OPENING STATEMENT OF CHAIRMAN BROOKS

Mr. BROOKS. The subcommittee will come to order.

Today we consider H.R. 24, the General Accounting Office Act of 1979. A similar bill, H.R. 12171, was introduced in the 95th Congress. It was approved unanimously by the subcommittee and the full committee and passed the House by voice vote, but failed to gain Senate approval in the last-minute rush to adjourn. H.R. 24 contains many of the same provisions as last year's bill and incorporates several new provisions.

H.R. 24 would make four main changes in GAO's statutory authority in order to make GAO a more effective auditing and investigative arm of the Congress.

First, it provides GAO with authority to audit unvouchered expenditures which are authorized by law to be accounted for solely on the signature of the President or other designated officials.

Second, it strengthens GAO's existing authority to enforce its statutory right of access to records of Federal agencies as well as non-Federal entities such as contractors.

Third, it makes changes in GAO's report issuance procedure in order to improve the timeliness and accuracy of such reports.

Fourth, H.R. 24 provides a formal mechanism for congressional input in the appointment of future Comptrollers General and their deputies. It would establish a commission of named congressional leaders to submit to the President their recommendations for potential

nominees to those offices. I have long felt that, as an arm of the Congress, the GAO should be headed by individuals selected by Congress. This provision moves toward that objective in what I believe is both a reasonable and constitutional manner.

Finally, H.R. 24 amends the auditing authority of the Inspectors General of the Departments of Health, Education, and Welfare and Energy to conform to the auditing authority provided in the Inspector General Act of 1978.

Since H.R. 24 was introduced earlier this year, we have held extensive discussions with GAO and the Office of Management and Budget in order to resolve some of the major points of contention those agencies found with the bill. The witnesses and the subcommittee members have been furnished with an amendment in the nature of a substitute which incorporates those changes.

H.R. 24 is an important means of strengthening GAO's role as an auditing and investigative arm of the Congress. A number of Members have called this the "Oversight Congress." Enactment of this bill will enable GAO to help us conduct our oversight responsibilities more vigorously and effectively.

Without objection, a copy of the bill will be included in the record at this point.

[The bill, H.R. 24, follows:]

96TH CONGRESS
1ST SESSION

H. R. 24

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1979

Mr. BROOKS introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "General Accounting
- 4 Office Act of 1979".

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1 TITLE I—GENERAL ACCOUNTING OFFICE

2 PROVISIONS

3 UNVOUCHERED EXPENDITURES

4 SEC. 101. Section 117 of the Accounting and Auditing
5 Act of 1950 (31 U.S.C. 67) is amended by adding at the end
6 thereof the following new subsection:

7 “(f)(1) Notwithstanding any provision of law heretofore
8 enacted permitting an expenditure to be accounted for solely
9 on the approval, authorization, or certificate of the President
10 of the United States or an official of a department or estab-
11 lishment, the Comptroller General shall be furnished such in-
12 formation as he may request and shall have access to such
13 books, documents, papers, records, and other information re-
14 lating to such expenditure as may be necessary to enable him
15 to determine whether the expenditure was, in fact, actually
16 made and whether such expenditure was authorized by law.
17 The provisions of this paragraph shall not be superseded
18 except by a provision of law enacted after the date of enact-
19 ment of this paragraph and specifically repealing or modify-
20 ing the provisions of this paragraph.

21 “(2) With respect to any expenditure accounted for
22 solely on the approval, authorization, or certificate of the
23 President of the United States or an official of a department
24 or establishment and notwithstanding any previously enacted
25 provision of law, no officer or employee of the General Ac-

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1 counting Office may release the findings of its audit of such
2 expenditure or disclose any books, documents, papers, rec-
3 ords, or other information concerning such expenditure to
4 anyone not an officer or employee of the General Accounting
5 Office, except to the duly established committees of the Con-
6 gress having legislative or oversight responsibilities, under
7 the rules of the House of Representatives or of the Senate,
8 over the subject matter of the expenditure.

9 “(3)(A) Nothing in this subsection shall be construed as
10 affecting the authority contained in section 8(b) of the Central
11 Intelligence Agency Act of 1949, as amended.

12 “(B) The President may exempt from the provisions of
13 paragraph (1) of this subsection financial transactions which
14 relate to sensitive foreign intelligence or foreign counterintel-
15 ligence activities; such an exemption may be given for a class
16 or category of financial transactions.

17 “(C) Financial transactions taken pursuant to section
18 8(b) of the Central Intelligence Agency Act of 1949, as
19 amended, and financial transactions exempted from the provi-
20 sions of paragraph (1) shall be reviewable by the Permanent
21 Select Committee on Intelligence of the House of Repre-
22 sentatives and the Select Committee on Intelligence of the
23 Senate.”.

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1 ENFORCEMENT OF ACCESS TO RECORDS

2 SEC. 102. Section 313 of the Budget and Accounting
3 Act, 1921 (31 U.S.C. 54), is amended by designating the
4 existing paragraph as subsection (a), by deleting the last sen-
5 tence thereof and by adding at the end the following new
6 subsections:

7 “(b) If any information, books, documents, papers, or
8 records requested under subsection (a) or any other provision
9 of law or agreement granting the Comptroller General a
10 right of access from any department or establishment have
11 not been made available to the General Accounting Office
12 within a period of twenty calendar days after the request has
13 been delivered to the office of the head of the department or
14 establishment involved, the Comptroller General, through
15 any attorney designated by him, is authorized to bring an
16 action in the United States District Court for the District of
17 Columbia against the head of the department or establish-
18 ment concerned to compel the furnishing of such material.
19 The Attorney General is authorized to represent the defend-
20 ant official in such actions.

21 “(c)(1) To assist in carrying out his functions, the
22 Comptroller General may sign and issue subpoenas requiring
23 the production of contractor and subcontractor records per-
24 taining to negotiated contracts and records of other non-Fed-
25 eral persons or organizations to which he has a right of

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1 access by any law or agreement. Service of a subpoena issued
2 under this subsection may be made by anyone authorized by
3 the Comptroller General (A) by delivering a copy thereof to
4 the person named therein, or (B) by mailing a copy thereof by
5 certified or registered mail, return receipt requested, ad-
6 dressed to such person at his residence or principal place of
7 business. A verified return by the person so serving the sub-
8 pena setting forth the manner of service or, in the case of
9 service by certified or registered mail, the return post office
10 receipt signed by the person so served, shall be proof of serv-
11 ice.

12 “(2) In case of failure to obey a subpoena issued under
13 paragraph (1), the Comptroller General, through any attor-
14 ney designated by him, may invoke the aid of any district
15 court of the United States in requiring the production of the
16 records involved. Any district court of the United States
17 within whose jurisdiction the contractor, subcontractor, or
18 other non-Federal person or organization is found or resides
19 or in which the contractor, subcontractor, or other non-Fed-
20 eral person or organization transacts business, may, in case
21 of refusal to obey a subpoena issued under this section, issue
22 an order requiring compliance therewith; and any failure to
23 obey such order of the court shall be treated by the court as a
24 contempt thereof.”

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1 AVAILABILITY OF DRAFT REPORTS

2 SEC. 103. Section 312 of the Budget and Accounting
3 Act, 1921 (31 U.S.C. 53) is amended by adding at the end
4 thereof the following new subsection:

5 “(f)(1) No portion of any report prepared by the Comp-
6 troller General shall be made available to any agency for
7 comment thereon for a period in excess of thirty days unless
8 the Comptroller General determines, upon a showing by such
9 agency, that a longer period is necessary and is likely to
10 result in improvement in the accuracy or reliability of such
11 report.

12 “(2) Only those portions of such reports which contain,
13 in the opinion of the Comptroller General, factual determina-
14 tions and conclusions shall be made available to an agency
15 under paragraph (1) of this subsection. Failure of an agency
16 to return comments on such portions by the conclusion of the
17 comment period established under such paragraph shall not
18 result in the delayed delivery of such reports.”.

19 APPOINTMENT OF THE COMPTROLLER GENERAL AND THE
20 DEPUTY COMPTROLLER GENERAL

21 SEC. 104. (a) Section 302 of the Budget and Account-
22 ing Act, 1921 (31 U.S.C. 42), is amended to read as follows:

23 “SEC. 302. (a) There shall be in the General Account-
24 ing Office a Comptroller General of the United States and a
25 Deputy Comptroller General of the United States who shall,

1 from a list of persons submitted by the Commission described
2 in subsection (b), be appointed by the President by and with
3 the advice and consent of the Senate. The Deputy Comptrol-
4 ler General shall perform such duties as may be assigned to
5 him by the Comptroller General. During the absence or inca-
6 pacity of the Comptroller General, or during a vacancy in
7 that office, the Deputy Comptroller General shall act as
8 Comptroller General.

9 “(b) Whenever, after the date of enactment of this sub-
10 section, a vacancy occurs in the Office of Comptroller Gen-
11 eral, there is established a commission to recommend individ-
12 uals to the President for appointment to the Office of Comp-
13 troller General and whenever, after such date, a vacancy
14 occurs in the Office of Deputy Comptroller General, there is
15 established a commission to recommend individuals to the
16 President for appointment to the Office of Deputy Comptrol-
17 ler General. Such commission shall in either case consist
18 of—

19 “(1) the Speaker of the House of Representatives,

20 “(2) the President pro tempore of the Senate,

21 “(3) the majority and minority leaders of the
22 House of Representatives and the Senate,

23 “(4) the Chairman and ranking minority member
24 of the Committee on Government Operations of the

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1 House of Representatives and of the Committee on
2 Governmental Affairs of the Senate, and
3 “(5) in the case of a vacancy in the office of
4 Deputy Comptroller General, the Comptroller General
5 of the United States.

6 Such Commission shall, after consultation with the President,
7 submit to the President for consideration the names of not
8 less than three persons for the office of Comptroller General:
9 *Provided*, That the President, within his discretion, may re-
10 quest that additional names be submitted.”.

11 (b) The first paragraph of section 303 of such Act (31
12 U.S.C. 43) is amended by striking out the first sentence and
13 inserting in lieu thereof the following: “Except as otherwise
14 provided in this section, the Comptroller General shall hold
15 office for fifteen years and the Deputy Comptroller General
16 shall hold office from the date of his appointment until the
17 date on which an individual is appointed to fill a vacancy in
18 the Office of Comptroller General. The Deputy Comptroller
19 General may continue to serve until his successor is ap-
20 pointed.”.

21 (c) The amendments made by this section shall not
22 apply to persons occupying the positions of Comptroller Gen-
23 eral and Deputy Comptroller General on the date of enact-
24 ment of this Act, but shall apply with respect to any vacancy

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1 in such positions occurring on or after such date, and shall
2 apply to any person appointed to fill such a vacancy.

3 TITLE II—CONFORMING AMENDMENTS WITH RE-
4 SPECT TO THE INSPECTORS GENERAL OF
5 THE DEPARTMENTS OF ENERGY AND
6 HEALTH, EDUCATION, AND WELFARE

7 AMENDMENT TO PUBLIC LAW 94-505

8 SEC. 201. Section 203(b) of the Act of October 15,
9 1976 (42 U.S.C. 3523), is amended to read as follows:

10 “(b) In carrying out the responsibilities specified in sub-
11 section (a)(1), the Inspector General shall—

12 “(1) comply with standards established by the
13 Comptroller General of the United States for audits of
14 Federal establishments, organizations, programs, activ-
15 ities, and functions;

16 “(2) establish guidelines for determining when it
17 shall be appropriate to use non-Federal auditors; and

18 “(3) take appropriate steps to assure that any
19 work performed by non-Federal auditors complies with
20 the standards established by the Comptroller General
21 as described in paragraph (1).”.

22 AMENDMENT TO PUBLIC LAW 95-91

23 SEC. 202. Section 208 of the Department of Energy
24 Organization Act (42 U.S.C. 7138) is amended by inserting
25 at the end thereof the following new subsections:

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1 “(h) In carrying out the responsibilities specified in sub-
2 section (b)(1), the Inspector General shall—

3 “(1) comply with standards established by the
4 Comptroller General of the United States for audits of
5 Federal establishments, organizations, programs, activ-
6 ities and functions;

7 “(2) establish guidelines for determining when it
8 shall be appropriate to use non-Federal auditors; and

9 “(3) take appropriate steps to assure that any
10 work performed by non-Federal auditors complies with
11 the standards established by the Comptroller General
12 as described in paragraph (1).

13 “(i) In carrying out the duties and responsibilities estab-
14 lished under this section, the Inspector General shall give
15 particular regard to the activities of the Comptroller General
16 with a view toward avoiding duplication and insuring effec-
17 tive coordination and cooperation.

18 “(j) In carrying out the duties and responsibilities estab-
19 lished under this section, the Inspector General shall report
20 expeditiously to the Attorney General whenever the Inspec-
21 tor General has reasonable grounds to believe there has been
22 a violation of Federal criminal law.”.

Mr. Brooks. We are pleased to have again before us the Comptroller General of the United States. Mr. Staats has appeared before the subcommittee on a number of occasions and contributed greatly to our work. He is now in his 13th year as Comptroller; his record has been a distinguished one.

Before pursuing that office, he served in the Federal Government as Deputy Director of the Bureau of the Budget, and as Executive Officer of Operations of the Coordinating Board of the National Securities Council.

He has gotten many honors in his long and outstanding service to our Government and is deeply appreciated by all of us.

I also want to put in a statement about Bob Keller, Deputy Comptroller of the United States. Apart from his career with the U.S. General Accounting Office, in 1935 he started out and was on active duty as an ensign in World War II. He has had a great record.

Mr. Staats is also accompanied by Milton Socolar, the General Counsel. He was in the Navy from 1943 to 1946. He joined the GAO in 1952 and transferred to the Office of General Counsel in 1956.

We are glad to have you, General.

STATEMENT OF ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES; ACCOMPANIED BY ROBERT F. KELLER, DEPUTY COMPTROLLER GENERAL; AND MILTON J. SOCOLAR, GENERAL COUNSEL

Mr. STAATS. Thank you very much, Mr. Chairman.

We appreciate your working out your schedule so that we could be here today to support H.R. 24.

As you have indicated, we were over most of the points in the hearings last year; so, with your agreement, we will put the whole statement in the record, and I will try to just highlight and summarize it.

Mr. Brooks. Without objection, it is so ordered, and the statement will appear in the record.

[See p. 47.]

Mr. STAATS. Section 101, as you have indicated, deals with the GAO's authority to audit the so-called unvouchered confidential funds. We think this section strikes a good balance between the need for some accountability and retains the confidentiality and flexibility which has been given by Congress to the President and to agency heads in this area.

I think it should be emphasized here that we would not have authority to take exception to payments, as we do in other cases where we find errors or illegal expenditures.

Turning to section 102 on page 3, this is a section which would authorize GAO to seek enforcement of its legal rights to records of the departments and agencies and of non-Federal persons and organizations, contractors, subcontractors, and so on.

I would call your attention to page 4. Going back to 1921, the Congress enacted language which seems to us to be as clear, concise, and comprehensive as could be written almost. What we are really saying here is that we should have the right, when agencies do not honor that law, to seek court action to obtain access to that information.

That is the basic statute under which we have functioned, and we believe it is a good statute.

With respect to the authority to seek access to records of non-Federal entities, the bill would give the GAO subpoena power. Today, the Inspectors General have subpoena power, as you well know, and some 54 agencies of the executive branch now have subpoena power. GAO does not, except in two cases: one which deals with the energy program and the other in the case of medicare and medicaid.

So, what we feel again here is that this language would go a long way in telling outside parties that if we cannot get their cooperation with respect to records which, by law, we have a legal right to review, then we would seek a subpoena to enforce that right.

We do not think we would have to use that authority very often, but we think it is an important insurance policy for the GAO, as an agency of the legislative branch, to have.

Now, with respect to section 104 on page 8, I would just like to make a brief comment. It is my view that it is particularly important that the Comptroller General have the confidence of, and that his selection be a product of advice which would come from both Houses of Congress—not just the Senate—and that both the majority and minority representation in the Congress should have some part to play in this effort.

We believe that the bill, as written, would be a very good step towards accomplishing this objective, but, in addition, I would like to say this. It would be our hope and our expectation that this process would shorten the time required to fill vacancies in this Office.

It is worth noting that the first vacancy which occurred required almost 3 years to fill. The second one required 5 weeks, the third one 11 months, and the fourth one 7 months. So, altogether, in these four vacancies, there was an elapsed time of almost 5 years when the Comptroller General position was not permanently filled. So, in addition to what I have included in my formal testimony, it occurred to me that it would be worth emphasizing that I would be, not only hopeful, but would expect and be very optimistic about the process which you have suggested in H.R. 24 in that it would greatly shorten the time required to fill vacancies in that office.

As you know, my term will be completed in early March of 1981—less than 2 years from now. So I believe that the inclusion of this provision would be very appropriate and very timely.

With respect to section 103—which I reserved because we do have some difference on this particular point—on page 11, I would like to read what we have to say on this subject.

We believe that the changes which we have recently made, and which we have been able to get the OMB to make in their circular A50, will go a long way toward meeting the concerns which you and others have expressed with respect to the time required to complete our work.

I say here, in the middle of page 11:

These changes should substantially reduce the time for getting Agency comments. I believe that they respond to the concerns underlying the proposed time limit in H.R. 24 and thereby obviate the need for legislation along the lines proposed.

I also believe that the part of section 103 allowing us only to provide agencies with the facts and conclusions but not recommendations of our report is undesirable.

Our reason for giving affected parties the full text is to assure ourselves that reports are fair, complete, and objective. Needless to say, agency concurrence with recommendations gives greater credibility to the reports and indicates progress in the resolution of identified problems. Conversely, if agencies take exception to our views, it is important for the Congress to be aware of why we disagree at the time our report is submitted to Congress.

We pride ourselves in the improvements in Government operations that result from our work. Most of these come about by agency actions on our recommendations, to which they are generally receptive, and they do this in the context of reviewing our draft reports.

For example, in fiscal year 1978, direct agency response to our reports accounted for \$1.9 billion of the \$2.5 billion in measurable savings applicable to the work of the GAO. In the previous year, in 1977, I might add, those savings added up to \$5.7 billion, again, most of it taken by the agencies rather than by the Congress directly. Early advice to them on our suggested improvements expedites realization of the benefits.

Thus, I believe our present practices enhance the usefulness of our reports to the recipients and should be continued.

Finally, I would like to point out that we are currently revising our report processing procedures to be effective July 1 with regard to significant changes to the draft reports.

As I have indicated to you in my letter of June 8, a copy of which I would like to include in the record, we intend to indicate in our final reports any significant changes between the conclusions and recommendations in draft and final reports resulting from agency comments together with the reasons for such changes.

In brief, I expect that the actions already taken will overcome the previous problems in obtaining comments on a prompt basis and will serve to highlight modifications in draft reports. If agencies do disagree or want to refute our report, I want the report itself to defend our position rather than having to do so through a later, separate report which few people would have the time and opportunity and, I might say, inclination to read after 30 or 60 days have gone by.

Now I would like to comment on some changes which we received on Friday and on which you asked for our comments here. I would like to do that now.

With regard to section 101, audit of unvouchered expenditures we believe that the proposed amendment explicitly recognizes our authority to audit unvouchered accounts in the White House office. The new language also allows us to disclose the findings of our audits of unvouchered accounts to the President and the head of the agency concerned. We believe such disclosure, which is not provided in the introduced bill, is entirely appropriate if the executive branch is to be expected to take timely corrective action should our audits identify irregularities in an unvouchered account.

The amendment changes section 102, enforcement of access to records, in two beneficial ways. First, it provides for notice to the Attorney General before we initiate any litigation to compel an agency to provide us with records. As I stated earlier, we think notice should also be given to the agency head and the Director of the OMB.

Second, the amendment allows us to apply for a court order against a Federal agency to compel access to its records. Such language effectively allows us to proceed as though a subpoena were issued to the agency. This change is worthwhile for it permits expedited resolution of access to records' difficulties involving Federal agencies.

I also support that part of the amendment that provides that failure to comply with a court order to produce records will be treated as contempt of court.

Regarding section 103 on the availability of draft reports, the amendment allows us to provide agencies with the full text of our draft reports. We believe this is an improvement because it allows agencies to react to the complete product of the GAO audit, including our proposed recommendations to overcome identified problems.

The amendment also allows committees and Members of Congress who have requested GAO audits to obtain copies of draft reports upon request. Drafts of self-initiated reports will similarly be made available, on request, to the House Government Operations and Senate Governmental Affairs Committees.

As I stated to you in my letter of June 8, we have already initiated changes to our internal report processing procedures to make drafts of our self-initiated reports available to you upon your request.

In addition, we also intend to identify significant changes between the conclusions and recommendations in the draft and final reports. This latter is legislated by the proposed amendment.

On balance, we still believe that section 103, as it would be amended, represents legislation that is both unnecessary and desirable in view of the steps we have already taken and our continuing need to retain a degree of discretion in the processing, disclosure, and issuance of GAO reports.

However, we recognize your concern in this area and would not object to handling the issues raised by section 103 as introduced or in the amendment through a vehicle of the committee report. If you are agreeable, we would, of course, be glad to work with you and your staff in developing report language.

Concerning section 104, the proposed amendment would remove the requirement that the President must select the Comptroller General and Deputy Comptroller General from a list of names submitted by the congressional commission.

I am aware that the executive branch has raised some question about the constitutionality of the requirement that the President must make his selection from the list of names submitted to him. I think the proposed amendment would overcome that concern, and I support it.

It seems to me, Mr. Chairman, it would be quite unlikely that any President would act contrary to the advice that he received from the commission constituted along the lines indicated in H.R. 24.

Finally, the amendment retains the language of title II of the bill as introduced. As I stated earlier, we think the objectives of this title are sound and could well be applied to all governmental internal audit operations as a matter of law, and I would hope that you would accept our suggestion here that this be extended in the same way that the Budget Accounting Procedures Act of 1950 gave us the responsibility for the accounting principles and standards.

We believe the fact that the OMB already specifies that the agencies use our standards give us background where there could be no objection to that.

But the part we would like is including it in the statute which would strengthen our hand. I think it would also represent a statement of the intention of Congress.

This concludes our statement. We would be happy to respond to your questions.

Mr. Brooks. Thank you very much, General.

You also requested that a letter be inserted in the record. By unanimous consent, that letter will be included in the record at this point.

[The material follows:]

18



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

JUN 8 1979

The Honorable Jack Brooks
House of Representatives

Dear Jack:

This letter will confirm the agreements reached at our May 31 meeting regarding (1) the weekly submission to you of a list of draft reports sent to agencies for comment and (2) discussion in our final reports of any significant changes from the conclusions and recommendations that were contained in the draft reports submitted to agencies.

With respect to the weekly list of draft reports, we will have this procedure in place by July 1. After that date, we will each Friday place in the mail to you a list of the draft reports, based on our self-initiated work, that were sent to the agencies during that week. As agreed, copies of these reports will be sent to you at your request.

Also effective the same date, our procedures will be revised to require that any significant changes between the conclusions and recommendations in draft and final reports which were based on agency comments be described in the latter documents together with the reasons for such changes. Since there are reports already in process, it will be a month or two before our final reports are all cast in this fashion. This procedure will apply to all reports--self-initiated and request--which are submitted to the agencies for written comment.

I trust that these actions are responsive to your concerns.

Sincerely yours,

(Signed) Elmer

Comptroller General
of the United States

Mr. STAATS. Mr. Chairman, I neglected to mention also that the attachment to our report deals with the question of access to records experience.

Mr. BROOKS. Without objection, that will be included in the record.
[The material follows:]

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EXTRACT OF U.S. GENERAL ACCOUNTING OFFICE REPORT

MANUAL: CHAPTER 6, PAGES 6-9 and 6-10, AS AMENDED

DECEMBER 1978

Letters transmitting report drafts to either government agencies or parties outside the Federal Government (agencies) for review and comment should contain a specific date by which the comments should be provided. Because the time needed to comment may vary with the complexity of the report and with the dispersal of an agency's activities, the specific time considered reasonable must be determined for each report. The normal time frame should be 30 days, although the division director can specify a shorter or longer period if considered appropriate in a particular case. In no event should this period exceed 60 days. The letter transmitting the draft report should request the agency to notify the assistant (or team) director if comments will not be provided by the requested date.

If the comments have not been received by 5 days before the due date or if the agency notifies us that it will not meet the due date, the assistant (or team) director should discuss with the agency when the comments could be furnished. If the comments will not be ready until more than 15 days beyond the due date, the division director (or deputy) should contact an appropriate high level agency official to see whether the comments can be expedited and received within the 15-day grace period. If not, the director should tell the agency that the report will be issued without written comments, and should also request a meeting within the 15-day grace period to at least get oral comments.

FEDERAL DEPARTMENTS, AGENCIES, OFFICES, COMMISSIONS,
AND INDEPENDENT ESTABLISHMENTS WITH AUTHORITY TO
ISSUE AND SIGN SUBPOENAS

<u>Agency/Activity</u>	<u>United States Code</u>
Agriculture (Department of)	
Pesticides and environmental pesticide control	7 U.S.C. §136d
Packers and stockyards	7 U.S.C. §222
Perishable agricultural commodities	7 U.S.C. §499m
Tobacco inspection	7 U.S.C. §511n
Seed inspection	7 U.S.C. §1603
Cotton research and promotion	7 U.S.C. §2115
Potato research and promotion	7 U.S.C. §2622
American Indian Policy Review Commission	25 U.S.C. §174 note
Civil Aeronautics Board	49 U.S.C. §1484
Civil Rights Commission	42 U.S.C. §§1975a, 1975d
Civil Service Commission	
Political activities of State and local employees	5 U.S.C. §1507
Enforcement of Voting Rights Act of 1965	42 U.S.C. §1973g

<u>Agency/Activity</u>	<u>United States Code</u>
Commerce (Department of)	
Weather modification	15 U.S.C. §330c
Flammability standards	15 U.S.C. §1193
Interstate land sales	15 U.S.C. §1714(c)
Shrimp fisheries log books	16 U.S.C. §1100b-5
Port safety	33 U.S.C. §1223
Shipping	46 U.S.C. §1124
Commission on Security and Cooperation in Europe	22 U.S.C. §3004
Consumer Products Safety Commission	
Hazardous substances	15 U.S.C. §1262 note
General	15 U.S.C. §2076
Council on Wage and Price Stability	12 U.S.C. §1904 note
Detention Review Board	50 U.S.C. §819
Energy (Department of)	
General	Pub. L. No. 95-91, title VI, §645
Powers of Secretary (formerly powers of Federal Energy Administration)	15 U.S.C. §772
Administration of Atomic Energy Act (formerly Energy Research and Development Agency)	42 U.S.C. §5814 (42 U.S.C. §2201(c))
Consumer Products (formerly Federal Energy Administration)	42 U.S.C. §6299

<u>Agency/Activity</u>	<u>United States Code</u>
Environmental Protection Agency	
General	33 U.S.C. §1369
Noise Control Act	42 U.S.C. §4915
Equal Employment Opportunity Commission	42 U.S.C. §2000e-9
Federal Communications Commission	47 U.S.C. §409
Federal Home Loan Bank Board	12 U.S.C. §1464(d)(9)
Federal Maritime Commission	46 U.S.C. §1124
Federal Metal and Non-Metallic Mine Safety Board	30 U.S.C. §729(i)
Federal Paperwork Commission	44 U.S.C. §3501 note
Federal Power Commission	
Natural gas companies	15 U.S.C. §717m
Water power	16 U.S.C. §825f
Federal Savings and Loan Insurance Corporation	12 U.S.C. §1730a(h)
Federal Trade Commission	
General	15 U.S.C. §§45, 49
Consumer products	42 U.S.C. §6302
Foreign Claims Settlement Commission	
Foreign claims	22 U.S.C. §1623
War Claims Settlement	50 U.S.C. (App.) §2001

<u>Agency/Activity</u>	<u>United States Code</u>
General	
Secretary of Department for which Coast Guard is operating (investigations of safety and environmental quality of ports, harbors, and navigable waters)	33 U.S.C. §1223
Secretary of Department administering Export Regulation Act	50 U.S.C. (App.) §2406
General Accounting Office	
Department of Energy Organization Act and Federal Energy Administration Act of 1974 (upon the adoption of a resolution by the appropriate congressional committee)	Pub. L. No. 95-91, title II, §207, 91 Stat. 565, 574; 15 U.S.C. §7
Energy Policy and Conservation Act	42 U.S.C. §§6382, 6384
Medicare-Medicaid Antifraud and Abuse Amendments	42 U.S.C. 1320A-1
Health, Education and Welfare (Department of)	
Old-age survivors and disability insurance benefits	42 U.S.C. §405(d)
Housing and Urban Development (Department of)	
Interstate land sales	15 U.S.C. §1714
Discriminatory housing practices	42 U.S.C. §3611
Immigration and Naturalization Service	
Immigration	8 U.S.C. §1225
Naturalization	8 U.S.C. §1446(b)
Indian Claims Commission	25 U.S.C. §70c

<u>Agency/Activity</u>	<u>United States Code</u>
Interior (Department of)	
Coal mines	30 U.S.C. §813
Public lands	43 U.S.C. §102
Internal Revenue Service	26 U.S.C. §§7602-7603
Interstate Commerce Commission	
Explosives transport	18 U.S.C. §835
Common carriers	49 U.S.C. §§12, 46
Motor vehicles	49 U.S.C. §305(d)
Joint Federal-State Land Use Planning Commission for Alaska	43 U.S.C. §1619(d)
Labor (Department of)	
Workmen's compensation	5 U.S.C. §8126
Farm labor contractors	7 U.S.C. §2046
Fair labor standards	29 U.S.C. §209
Longshoremen	33 U.S.C. §927
Government contracts	41 U.S.C. §39
Law Enforcement Assistance Administration	42 U.S.C. §3754
National Commission on Electronic Fund Transfers	12 U.S.C. §2404(d)
National Credit Union Administration	
Examination of insured credit unions	12 U.S.C. §1784

<u>Agency/Activity</u>	<u>United States Code</u>
National Labor Relations Board	
Determination of bargaining units; investigations into the fairness of elections; and unfair labor practices	29 U.S.C. §161
National Mediation Board	
Mediating disputes between carriers and their employees	45 U.S.C. §157
Pension Benefit Guaranty Corporation	29 U.S.C. §1303
President	
Enforcement of Defense Production Act	50 U.S.C. (App.) §2155
Railroad Retirement Board	
Railroad unemployment insurance claims	45 U.S.C. §362
Securities and Exchange Commission	
Security Exchange Act	15 U.S.C. §78u
Public utility holding companies	15 U.S.C. §79r
Investment companies	15 U.S.C. §80a-41
Small Business Administration	
Assistance recipients	15 U.S.C. §634
Investment company licensing	15 U.S.C. §§687a, 687b
of Commission	19 U.S.C. §1333

<u>Agency/Activity</u>	<u>United States Code</u>
Technology Assessment Board	2 U.S.C. §473
Transportation (Department of)	
Safety standards	15 U.S.C. §1401
Tolls in navigable waters	33 U.S.C. §506
Transportation Safety Board	49 U.S.C. §1903(b)
Treasury (Department of)	
Marijuana investigations	21 U.S.C. §§198a, 198b, 198c
Enforcement of narcotics laws	31 U.S.C. §1034
United States Railway Association	45 U.S.C. §713
War Production Board	
Audits of defense contractors	50 U.S.C. (App.) §643a
Procurement and repair of naval vessels	50 U.S.C. (App.) §1152(c)

EXPIRED AUTHORITY

<u>Agency/Activity</u>	<u>United States Code</u>
Commission on Consumer Finance	15 U.S.C. §1601 note
Commission on Food Marketing	7 U.S.C. §1621 note
Commission on the Organization of the Government for the Conduct of Foreign Policy	22 U.S.C. §2924

<u>Agency/Activity</u>	<u>United States Code</u>
Commission for the Review of Federal and State Laws Relating to Wire- tapping and Electronic Surveillance	18 U.S.C. §2510 note
Commission on the Review of the National Policy toward Gambling	18 U.S.C. §1955 note
Public Land Law Review Commission	43 U.S.C. §1398
Subversive Activities Control Board	
Investigations on communist- action-front groups or infil- trated organizations*/	50 U.S.C. §792
Transportation (auto insurance investigation)	49 U.S.C. §1653 note

*/ The Board's funding ceased on June 30, 1973. See 50 U.S.C.
§791.

Mr. STAATS. We cite here some seven specific cases in the executive branch where we have had difficulty in recent years.

Mr. BROOKS. My first question is this. Can you elaborate on the difficulty the GAO has encountered in carrying out its audit activities with respect to access to records? I think that is pretty well covered in that document you just mentioned.

Mr. STAATS. We believe it is a very complete statement, and I hope it will be persuasive.

Mr. BROOKS. When agencies do not want to give you information that you need for your audits, do they just refuse to comply flatly, or do they simply drag their feet in responding? What system do they use to give you the knife?

Mr. STAATS. About every one that you can think of, to be quite candid about it. Very rarely will they just explicitly say, in writing, "No, you cannot have it." They will argue; they will debate; they will procrastinate; and, in some cases, they will raise legal questions about the right of the GAO to have access, in spite of the language of the 1950 act which I referred to in my statement.

We believe that the delay, which is a serious one, is of concern to Congress, and I am concerned about the length of time sometimes required to get our reports out. Frequently, we have had delays of up to 6 months or longer, with agencies not giving us access after we have told them what we need.

Mr. BROOKS. Would section 102 help alleviate this problem?

Mr. STAATS. We think it would alleviate it in very good measure. We will not completely cure the problem; I am sure of that; I would not be that naive or optimistic; but it will do a great deal to resolve the issues we have if the agencies realize that ultimately we can go to court and enforce our right.

Mr. BROOKS. As you know, since H.R. 24 was introduced at the beginning of this 96th Congress, the committee has had extensive discussion with you and with the administration, and you have been furnished with a copy of an amendment in the nature of a substitute incorporating the changes based on these discussions.

Without objection, that amendment will be included in the record at this point.

[The material follows:]

~~BR~~OOKS062

Amendment in the Nature of a Substitute to H.R. 24

Offered by Mr. Brooks

Strike out everything after the enacting clause and
insert in lieu thereof the following:

1 That this Act may be cited as the "General Accounting
2 Office Act of 1979".

3 TITLE I--GENERAL ACCOUNTING OFFICE PROVISIONS

4 UNVOUCHERED EXPENDITURES

5 SEC. 101. Section 117 of the Accounting and Auditing Act
6 of 1950 (31 U.S.C. 67) is amended by adding at the end
7 thereof the following new subsection:

8 "(f)(1) Notwithstanding any provision of law heretofore
9 enacted permitting an expenditure to be accounted for solely
10 on the approval, authorization, or certificate of the
11 President of the United States or an official of an
12 executive agency, the Comptroller General shall have access
13 to such books, documents, papers, records, and other
14 information relating to such expenditure as may be necessary
15 to enable him to determine whether the expenditure was, in
16 fact, actually made and whether such expenditure was
17 authorized by law. The provisions of this paragraph shall
18 not be superseded except by a provision of law enacted after
19 the date of enactment of this paragraph and specifically
20 repealing or modifying the provisions of this paragraph. In

1 the case of an expenditure under section 105(d)(1), (3), or
2 (5), or 106(b)(2) or (3), of title 3, United States Code,
3 the provisions of sections 105(d) and 106(b) of such title
4 shall govern the examination of such expenditures by the
5 Comptroller General in lieu of the provisions of this
6 subsection.

7 "(2) With respect to any expenditure accounted for
8 solely on the approval, authorization, or certificate of the
9 President of the United States or an official of a
10 department or establishment and notwithstanding any
11 previously enacted provision of law, no officer or employee
12 of the General Accounting Office may release the findings of
13 its audit of such expenditure or disclose any books,
14 documents, papers, records, or other information concerning
15 such expenditure to anyone not an officer or employee of the
16 General Accounting Office, except to the President, the head
17 of the agency concerned, or to a duly established committee
18 or subcommittee of the Congress.

19 "(3)(A) Nothing in this subsection shall be construed
20 as affecting the authority contained in section 8(b) of the
21 Central Intelligence Agency Act of 1949, as amended.

22 "(B) The President may exempt from the provisions of
23 paragraph (1) of this subsection financial transactions
24 which relate to sensitive foreign intelligence or foreign
25 counterintelligence activities; such an exemption may be

1 given for a class or category of financial transactions.

2 ''(C) Information concerning financial transactions
3 taken pursuant to section 8(b) of the Central Intelligence
4 Agency Act of 1949, as amended, and information concerning
5 financial transactions exempted from the provisions of
6 paragraph (1) shall be reviewable by the Permanent Select
7 Committee on Intelligence of the House of Representatives
8 and the Select Committee on Intelligence of the Senate.''.
9

ENFORCEMENT OF ACCESS TO RECORDS

10 SEC. 102. Section 313 of the Budget and Accounting Act,
11 1921 (31 U.S.C. 54), is amended by designating the existing
12 paragraph as subsection (a) and by adding at the end the
13 following new subsections:

14 ''(b) If any information, books, documents, papers, or
15 records requested under subsection (a) or any other
16 provision of law or agreement granting the Comptroller
17 General a right of access from any department or
18 establishment have not been made available to the General
19 Accounting Office within a period of twenty calendar days
20 after the request has been delivered to the office of the
21 head of the department or establishment involved, the
22 Comptroller General, through any attorney designated by him,
23 may after twenty calendar days notice to the Attorney
24 General, apply to the United States District Court for the
25 District of Columbia for an order requiring the production

1 of such material by the head of the department or
2 establishment. The Attorney General is authorized to
3 represent the defendant official in such proceedings. Any
4 failure to obey an order of the court under this subsection
5 shall be treated by the court as a contempt thereof.

6 "(c)(1) To assist in carrying out his functions, the
7 Comptroller General may sign and issue subpoenas requiring
8 the production of contractor and subcontractor records
9 pertaining to negotiated contracts and records of other non-
10 Federal persons or organizations to which he has a right of
11 access by any law or agreement. Service of a subpoena issued
12 under this subsection may be made by anyone authorized by
13 the Comptroller General (A) by delivering a copy thereof to
14 the person named therein, or (B) by mailing a copy thereof
15 by certified or registered mail, return receipt requested,
16 addressed to such person at his residence or principal place
17 of business. A verified return by the person so serving the
18 subpoena setting forth the manner of service or, in the case
19 of service by certified or registered mail, the return post
20 office receipt signed by the person so served, shall be
21 proof of service.

22 "(2) In case of failure to obey a subpoena issued under
23 paragraph (1), the Comptroller General, through any attorney
24 designated by him, may invoke the aid of any district court
25 of the United States in requiring the production of the

1 records involved. Any district court of the United States
2 within whose jurisdiction the contractor, subcontractor, or
3 other non-Federal person or organization is found or resides
4 or in which the contractor, subcontractor, or other non-
5 Federal person or organization transacts business, may, in
6 case of refusal to obey a subpoena issued under this section,
7 issue an order requiring compliance therewith; and any
8 failure to obey such order of the court shall be treated by
9 the court as a contempt thereof.''.
10

AVAILABILITY OF DRAFT REPORTS

11 SEC. 103. Section 312 of the Budget and Accounting Act,
12 1921 (31 U.S.C. 53) is amended by adding at the end thereof
13 the following new subsection:

14 ''(f)(1) No portion of any draft report prepared by the
15 General Accounting Office shall be submitted to any agency
16 for comment thereon for a period in excess of 30 days unless
17 the Comptroller General determines, upon a showing by such
18 agency, that a longer period is necessary and is likely to
19 result in improvement in the accuracy of such report.

20 ''(2) Failure of an agency to return comments by the
21 conclusion of the comment period established under paragraph
22 (1) of this subsection shall not result in the delayed
23 delivery of any such report.

24 ''(3) Whenever an agency is requested to comment on a
25 draft report, the Comptroller General shall--

1 perform such duties as may be assigned to him by the
2 Comptroller General. During the absence or incapacity of
3 the Comptroller General, or during a vacancy in that office,
4 the Deputy Comptroller General shall act as Comptroller
5 General.

6 ''(b) Whenever, after the date of enactment of this
7 subsection, a vacancy occurs in the Office of Comptroller
8 General, there is established a commission to recommend
9 individuals to the President for appointment to the Office
10 of Comptroller General and whenever, after such date, a
11 vacancy occurs in the Office of Deputy Comptroller General,
12 there is established a commission to recommend individuals
13 to the President for appointment to the Office of Deputy
14 Comptroller General. Such commission shall in either case
15 consist of--

16 ''(1) the Speaker of the House of Representatives,
17 ''(2) the President pro tempore of the Senate,
18 ''(3) the majority and minority leaders of the House
19 of Representatives and the Senate,
20 ''(4) the Chairman and ranking minority member of
21 the Committee on Government Operations of the House of
22 Representatives and of the Committee on Governmental
23 Affairs of the Senate, and
24 ''(5) in the case of a vacancy in the office of
25 Deputy Comptroller General, the Comptroller General of

1 the United States.

2 Such Commission shall submit to the President for
3 consideration the names of not less than five persons for
4 the office of Comptroller General. The President, within his
5 discretion, may request that additional names be
6 submitted.''.
7

8 (b) The first paragraph of section 303 of such Act (31
9 U.S.C. 43) is amended by striking out the first sentence and
10 inserting in lieu thereof the following: ''Except as
11 otherwise provided in this section, the Comptroller General
12 shall hold office for fifteen years and the Deputy
13 Comptroller General shall hold office from the date of his
14 appointment until the date on which an individual is
15 appointed to fill a vacancy in the Office of Comptroller
16 General. The Deputy Comptroller General may continue to
17 serve until his successor is appointed.''.
18

19 (c) The amendments made by this section shall not apply
20 to persons occupying the positions of Comptroller General
21 and Deputy Comptroller General on the date of enactment of
22 this Act, but shall apply with respect to any vacancy in
23 such positions occurring on or after such date, and shall
24 apply to any person appointed to fill such a vacancy.

25 TITLE II--CONFORMING AMENDMENTS WITH RESPECT TO THE
26 INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH,
27 EDUCATION, AND WELFARE

1 AMENDMENT TO PUBLIC LAW 94-505

2 SEC. 201. Section 203(b) of the Act of October 15, 1976
3 (42 U.S.C. 3523), is amended to read as follows:

4 ''(b) In carrying out the responsibilities specified in
5 subsection (a)(1), the Inspector General shall--

6 ''(1) comply with standards established by the
7 Comptroller General of the United States for audits of
8 Federal establishments, organizations, programs,
9 activities, and functions;

10 ''(2) establish guidelines for determining when it
11 shall be appropriate to use non-Federal auditors; and

12 ''(3) take appropriate steps to assure that any work
13 performed by non-Federal auditors complies with the
14 standards established by the Comptroller General as
15 described in paragraph (1).''

16 AMENDMENT TO PUBLIC LAW 95-91

17 SEC. 202. Section 208 of the Department of Energy
18 Organization Act (42 U.S.C. 7138) is amended by inserting at
19 the end thereof the following new subsections:

20 ''(h) In carrying out the responsibilities specified in
21 subsection (b)(1), the Inspector General shall--

22 ''(1) comply with standards established by the
23 Comptroller General of the United States for audits of
24 Federal establishments, organizations, programs,
25 activities and functions;

1 ''(2) establish guidelines for determining when it
2 shall be appropriate to use non-Federal auditors; and
3 ''(3) take appropriate steps to assure that any work
4 performed by non-Federal auditors complies with the
5 standards established by the Comptroller General as
6 described in paragraph (1).
7 ''(i) In carrying out the duties and responsibilities
8 established under this section, the Inspector General shall
9 give particular regard to the activities of the Comptroller
10 General with a view toward avoiding duplication and insuring
11 effective coordination and cooperation.
12 ''(j) In carrying out the duties and responsibilities
13 established under this section, the Inspector General shall
14 report expeditiously to the Attorney General whenever the
15 Inspector General has reasonable grounds to believe there
16 has been a violation of Federal criminal law.''.
17

Mr. BROOKS. What is your opinion of the changes, as they pertain to to the GAO?

Mr. STAATS. Mr. Chairman, I believe I have covered all the changes which we are aware of in the final part of my statement. We feel that those changes are helpful, and we have no problem with them in any respect.

Mr. BROOKS. Do you feel that the provision in section 104 dealing with the appointment of the Comptroller General and the Deputy Comptroller General provides an adequate congressional voice in selecting the future Comptroller General while, at the same time, preserving the President's constitutional appointment power?

Mr. STAATS. I believe it would be a major step forward.

The point I would like to emphasize again is this. It is important for whoever is in this post to have the confidence of both parties in the Congress and have both the House and Senate having a direct part to play in the selection of that person.

I believe that, even though the President would not be required by law to select from such a list, in practice I think it would be most unlikely for the President not to follow that advice of the Commission. I think he would accept their advice.

Mr. BROOKS. General, with respect to the provision in section 103 dealing with the availability of draft reports, do you see any problem with being able to comply with this in a timely manner?

Mr. STAATS. Mr. Chairman, our plea here is that you not write it in the statute because the situation varies a great deal from case to case. I believe we now have a good understanding with the committee as to how we should proceed here, and I would hope that we could report it as part of the committee report, rather than tying it up in the statutory language which either might require amendment or create an undesirable result in specific cases. That would be our hope.

Mr. BROOKS. All right.

Mr. HORTON?

Mr. HORTON. Thank you, Mr. Chairman.

Welcome, Elmer, you and your staff.

I understand your position with regard to section 103. You can live with it, but you prefer that it be in the report rather than legislative language. Is that right?

Mr. STAATS. We would prefer that it be in the report. That way, if we needed to work out some change in the procedure, we could work it out with the committees, rather than having to get the law changed.

We run into all kinds of situations; and even on the congressional requests we get to do work, the committees have different ideas, in some cases, as to how they would like to proceed. We need some flexibility—that is all I am suggesting.

Mr. HORTON. But the amendment does cure the problems you were concerned with?

Mr. STAATS. Those that we know of now. But we recognize that this is a changing situation, and we would be concerned to have it frozen in the statute, where we might have to get the law changed.

Mr. HORTON. The proposed amendment worked out between your staff and our staff, which would have to be offered when we have mark-up, permits you to submit the full report to the agencies, which you were most concerned about.

Mr. STAATS. Yes.

Mr. HORTON. That is your understanding—right?

Mr. STAATS. It would be helpful.

Again, we have no problem at all with the idea of showing the Congress what changes we have made, of any kind. That has never been any problem with us. The reason we have not displayed all of that in the previous reports is simply to cut down the time it takes to process the reports and to cut down the length of those reports. But there has been no secret about it. Any time anyone has asked a question about changes, we have been responding to them.

We do have about 1,500 different projects in process in GAO right now. We have to make the judgment, case by case, as to how we process those, what time we give the agencies—sometimes we cannot give the agencies very much time; other times, we get into a very complex situation where we would not be prepared to stand behind the report unless we did have agency comments.

We have our own internal review system. Sometimes these changes are made in the process of our internal reviews, rather than based on agency comments.

We need a lot of flexibility here, I think.

Mr. HORTON. On page 13 of your statement, you refer to the amended changes that are made in section 102, and indicate that it provides for notice to the Attorney General before you initiate litigation, compelling agencies to provide you with records.

Then you state, "As I stated earlier, we think notice should also be given to the agency head and the Director of OMB."

Is it important for that to be included in the amendment?

Mr. STAATS. Even if it is not in the statute, I think we would be inclined to do that for this reason. Frequently, the slow-down and the denial that take place are at a lower level in the organization. If we elevated that issue to the agency head level and Director of the OMB level, I think that in a great many of these cases we would be able to work it out with them. In fact, my own experience has been this. When I get in touch with a Cabinet officer or the agency head involved we are able to get things broken loose that we would have difficulty getting broken loose at a lower level. I think it would be an orderly way to deal with it.

Mr. HORTON. Would you be satisfied if we put in the report language the requirement that the notice be given to the agency head and Director of OMB?

Mr. STAATS. I think so. I would like to be in agreement with the Congress on that point.

Mr. HORTON. Do you believe that section 101 concerning unvouchered expenditures provides adequate protection against improper disclosure so as to assure the confidentiality of information at the White House, the CIA, and other agencies?

Mr. STAATS. We think it does.

Mr. HORTON. Will the 20-day notice to the Attorney General of an intention to file suit to enforce access to an agency's records allow suitable opportunity to reconcile differences between the GAO and the agency involved?

Mr. STAATS. I think it would. I would be interested in Mr. Keller's response to your question.

Mr. HORTON. Mr. Keller?

Mr. KELLER. I think it would be adequate.

I think one of the problems here is that we may be ready to file suit, and it is important to notify the Attorney General. He may not want to defend the suit. This would help resolve the problem before we got into court.

But I would think 20 days should be ample.

Mr. HORTON. Thank you.

I have no further questions, Mr. Chairman.

Mr. KELLER. There would be a minimum period anyway.

Mr. BROOKS. Mr. Levitas?

Mr. LEVITAS. Thank you, Mr. Chairman.

General Staats, how many employees are there in GAO at the present time?

Mr. STAATS. It is easiest to break it down in terms of professional and nonprofessional staff. In terms of professional staff, we have approximately 4,000; and we have about 1,100 support people—between 1,000 and 1,100.

Mr. LEVITAS. Compared, say, to 5 years ago, has that been about the same?

Mr. STAATS. We have fewer people now than we had 3 years ago. Two years ago we received no increase at all; and, last year, we had the 5-percent overall cut, even after the House and Senate had agreed on 120 additional staff for us. So, effectively, we now have less staff than we had 3 years ago, in spite of all the increase in work.

We had 16 different statutes, Congressman Levitas, last year which mandated additional work for the GAO.

Mr. LEVITAS. Yes, that is my understanding. In fact, I was responsible for some of them.

One of the things I am hearing from some of the agencies, General Staats, and I take this occasion to raise the question with you, is this. I am getting this from several agencies. There is a feeling that some of the people whom GAO is sending into the agencies are people who are not familiar with the technical area in which the agency is dealing, and when they meet with you and receive a response from the agency, they seem to pay no attention and ignore it.

Have you received any complaints of that sort?

Mr. STAATS. I would like to respond to that, and perhaps make three points, if I might.

One thing we have done is to diversify our staff and try to bring in more experts in different fields. We have used consultants to assist us in that way also. We have roughly 40 percent of our staff now whose original training was in specialized fields other than accounting and law.

With respect to people who have had their background in accounting, we have gone through an extensive training program. Many of those people have become highly expert in the fields in which they work.

The second thing I would say in response to that kind of question or criticism is that it is inevitable, I think, in the whole nature of the operation, where we are going in to look at the operations of an agency, that they would think it would be very difficult for anybody outside to be expert, or knowledgeable, or be able to make an assessment and render an opinion or conclusion and make recommendations in the field in which they have been working for many years in some cases.

So, I think part of the reaction is just inevitable by the very nature of making an external type of audit.

Finally, I would say that there is legitimate room for defensive opinion. We are in the nature of the critic of the agencies—I hope a constructive critic, but we are still in the nature of a critic—and I think that is what the GAO is all about—to try to make evaluations and audits of the performance of agency management.

So, it is not surprising at all that we would end up in disagreement.

The real point here is that when we do have those disagreements, we know about them and are able to tell the Congress where the disagreement lies—why we and the agencies come out differently on the subject.

Mr. LEVITAS. In that latter regard, some of the concerns that have been expressed to me relate to, not differences in evaluation or judgment, but questions raised about the presence or absence of a certain form, report, or situation, or event. The agency says, "Here it is," and the auditors, or the people doing your report, do not take that into account because apparently the report is too far down the line already.

I just pass that on to you because I am sure you would want to know those types of concern that are being voiced.

One agency I recently got some information from—not one of the larger agencies but a relatively middling sort of agency—told me that they have, at the present time, 130 GAO employees in their agency at the present time, and in the last year there have been almost 250 reports initiated relating to that agency, half of them self-initiated.

Does that sound like par for the course?

Mr. STAATS. That sounds like too high a number for any one location.

We do have our staff located out in the agencies. We do that because that is where the information is; that is where they learn what the programs are; it saves time and expense. So, we have staff located actually in the Washington area in more than 40 different locations. We have field staff, as you know. We have 15 regional offices; we have 23 suboffices.

The whole principle here is to get our people out where the operations are taking place so that they know what is going on and do not have to simply go out ad hoc.

But that number sounds pretty high.

Mr. LEVITAS. It sounds high to me, too. I will give you the information later, if you would like to check on that.

I have two more questions, if I may.

I am always concerned with that famous Latin maxim, "Quis custodiat ipsa custodius?"—"Who is guarding the guardians?"

What type of independent checks on your procedures are there? Is this committee not doing enough to assist you in seeing that GAO, itself, is being operated properly?

Mr. STAATS. There are a number of things that we have tried to do here. We have tried to keep both the Governmental Affairs Committees up to date, and we have had very fine relationships here. We have not always agreed, but we have had very good relationships with this committee, similarly with the Senate Governmental Affairs Committee.

Our appropriation is reviewed very carefully, and we are not happy

with the result this year particularly. We have incurred additional workloads amounting to 250 additional people, and if the House figures hold, we will end up with fewer people than we had last year.

In any event, the Appropriations Committee review takes place. We have an internal audit operation in GAO which has complete freedom to go into any area that it wants to look at.

With respect to some of our program evaluation work, we are currently planning to get an outside group to come in and critique about 6, 8, or 10 reports we have issued—what did we do right? What did we do wrong? How could we have improved that product? Then we are going to ask that group to meet with all of our top people and spend a full day, 2 days if necessary, going through these reports.

Mr. LEVITAS. I am very pleased to hear that. That is precisely what I was hoping for because I do think all of us need somebody on the outside sometimes to take a look at what we are doing and maybe come up with some suggestions. I am very encouraged to hear that.

My last question is this. As I understand it, GAO is, by statute, prohibited from auditing accounts of the Congress and of Members. Is that correct?

Mr. STAATS. Generally, the answer is yes, but there are some exceptions.

Mr. KELLER. Mr. Levitas, there is not a general prohibition; we can audit the expenditures of the Clerk of the House who pays certain things, as you well know. But many of the expenditures of Congress are made on certificate, either by committee chairman or the chairman of the Committee on House Administration, and we have no authority to go behind those.

Mr. LEVITAS. What about Members' accounts?

Mr. KELLER. Members' accounts we do not audit.

There was a provision put in the legislative appropriation bill about 2 years ago, but it really did not change things that much.

We have taken the position that if a Member wants us to take a look at his office accounts, we will do so, but we have not had any such requests.

Mr. LEVITAS. I have introduced a bill, now, in two Congresses, calling on GAO to audit the accounts of the Congress and the accounts of the Members of Congress. This looks like a pretty germane piece of legislation for something like that. Maybe we will have an opportunity to discuss it further.

I do have one last question.

Mr. STAATS. Excuse me. I could add one additional point here.

In the Legislative Reorganization Act of 1970, a provision was included which said that the GAO should audit the commercial activities in the Congress.

Mr. LEVITAS. Yes.

My last question is this. Frequently, I read your reports, and you make a number of recommendations to agencies.

Do you have any mechanism for ascertaining the extent to which those recommendations are or are not implemented?

Mr. STAATS. We have a systematic procedure of followup on our recommendations. An agency will say, for example, "We agree in principle; we will set up a task force to take a look." We follow up on that.

Also, we have what we call "accomplishment reporting." Each of our audit groups makes what we call an "accomplishment report" on the work they have done—how much savings have been made; how many changes have been made in procedures—and we put all this together in our annual report.

Mr. LEVITAS. Your followup to see whether the agencies do or do not act upon your recommendations—do those followup reports come to this committee?

Mr. STAATS. If it results in a followup report, yes.

Mr. LEVITAS. Do you find that agencies generally accept your recommendations or not?

Mr. STAATS. It varies, of course, a great deal. Overall, we are pretty proud of changes we have been able to bring about. Many of these recommendations we make which are accepted cannot be quantified from the point of view of dollars and cents savings, but those that are quantified, in the last 2 years, have amounted to \$8.25 billion. For the most part, those actions are taken by the agencies, themselves.

I think it is understandable in a way because, many times, in big agencies, the problems have been there and have not been thoroughly identified or raised to the level where decisions can be taken.

The fact that we have a draft report has kind of a catalytic effect. It precipitates up the problem, and they know it is going to be public, and they know it is coming to Congress. So, it has the effect of forcing action on matters which otherwise would not have been acted upon, at least as early.

Mr. LEVITAS. Thank you.

Thank you, Mr. Chairman.

Mr. BROOKS. Mr. Stangeland?

Mr. STANGELAND. Thank you, Mr. Chairman.

General Staats, I have just one question. It addresses the area of the Inspectors General. It is probably one that cannot be answered here but one which I think maybe you should be looking at as we go along with that Inspector General provision.

I would like to cite you the instance and see if you have a comment. We had a severe uprising in the Red Lake Reservation. The Department of Interior is sending an Inspector General up there to review the BIA programs on that reservation. The uprising was a direct result of citizens of that reservation having concern about the tribal council's mispending money.

We find that, in order to get to the bottom of the question, we have to request the Inspectors General of HUD, Labor, and Commerce as well to look at programs because the Inspector General of the Interior can only look at BIA programs.

I understand that, in the past, when you had crossed jurisdictions, one Inspector General sometimes has taken the lead and represented all Inspectors General. I am just wondering if it is feasible or realistic to look at the possibility of some encouragement through law that, in a case of multiple jurisdictions such as this, the various departments or agencies might be encouraged, rather than having four Inspectors General going up and going over the same records, going into the same books to determine how moneys are expended in various programs, to have, if at all possible, one lead Inspector General with some supporting assistance.

Mr. STAATS. This problem is particularly prevalent in the auditing of grants in aid to the States by different agencies. We have recently put out a report on this which would indicate that, in some cases, there is over-auditing, and in other cases, no audits have taken place for 5 years.

So, we have a problem both in who takes the lead but also in being sure we have adequate coverage.

My reaction as to whether legislation is required or not would be to say that I think it is a matter that the executive branch can deal with. They have now set up a project to take a look at this very problem.

I guess my inclination would be to say that it is an executive branch problem, not one that would require legislation. We would certainly support the idea, however.

Mr. STANGELAND. Thank you.

Thank you, Mr. Chairman.

Mr. BROOKS. Mr. Fuqua?

Mr. FUQUA. Mr. Chairman, I do not have any questions. I just remember our passing this bill last year, and I hope that it gets through Congress this year.

I am very happy to have the Comptroller General here today. Thank you for yielding me the time.

Mr. BROOKS. Thank you.

I want to thank you very much, General, Mr. Keller, and Mr. Socolar. We appreciate your coming down.

Mr. STAATS. We thank you very much, Mr. Chairman, for holding these hearings.

[Mr. Staats' prepared statement follows:]

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STATEMENT OF
ELMER B. STAATS
COMPTROLLER GENERAL OF THE UNITED STATES
Before the
SUBCOMMITTEE ON LEGISLATION AND NATIONAL
SECURITY OF THE COMMITTEE ON GOVERNMENT OPERATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
H.R. 24, 96th Congress